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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,002	01/13/2004	Lily Marie Amaru	20578.25024	3299

7590 02/03/2005

BROUSE MCDOWELL
A Legal Professional Association
388 South Main Street
Suite 500
Akron, OH 44311-4407

EXAMINER

COHEN, AMY R

ART UNIT	PAPER NUMBER
2859	

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/757,002

Applicant(s)

AMARU, LILY MARIE

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 9-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 10, 15-17 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 10 is directed to the apparatus of claim 1, however, claim 10 states "wherein said fabric pattern is for a quilt," which does not further limit the apparatus of claim 1. Therefore, claim 10 is rejected in the rejection of claim 1.

Claim 15 is directed to the method of claim 12, however, claim 15 states "wherein said fabric pattern is for a quilt," which does not further limit the method of claim 12. Therefore, claim 15 is rejected in the rejection of claim 12.

Claim 16 is directed to the method of claim 12, however, claim 16 states "wherein said fabric pattern is for a placemat," which does not further limit the method of claim 12. Therefore, claim 16 is rejected in the rejection of claim 12.

Claim 17 is directed to the method of claim 12, however, claim 15 states "wherein said fabric pattern is for a pillow," which does not further limit the method of claim 12. Therefore, claim 17 is rejected in the rejection of claim 12.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-7, 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Vazquez (U. S. Patent No. 5,966,824).

Vazquez teaches an apparatus (10), comprising: a body (Figs. 1 and 2) having at least a first non-linear edge (52) having a first wavelength (Fig. 1), a second non-linear edge (54) having a second wavelength (Fig. 1), said first wavelength being different from said second wavelength (Fig. 1), said first non-linear edge adapted to be used to make a portion of an associated fabric pattern, wherein the fabric portion has an edge such that the shape of the fabric portion edge resembles said first non-linear edge, wherein said first non-linear edge is adapted to be used to make associated fabric blocks for the fabric pattern said shape of the fabric portion edge resembling said first non-linear edge is adapted to be visible in the fabric block (Col 2, line 53-Col 3, line 23).

Vazquez teaches the apparatus wherein said second non-linear edge is adapted to be used to make a portion of the fabric pattern, wherein the shape of the fabric portion edge resembles said second non-linear edge (Figs. 3 and 4).

Vazquez teaches the apparatus wherein the shape of said first non-linear edge is different from the shape of the second non-linear edge (Figs. 1 and 2).

Vazquez teaches the apparatus wherein said body comprises demarcations for measuring length (34, 36, 38, 50).

Vazquez teaches the apparatus wherein said first non-linear edge is a wavy pattern (Figs. 1 and 2).

Vazquez teaches the apparatus wherein said second non-linear edge is a wavy pattern (Figs. 1 and 2).

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Vazquez teaches the apparatus wherein said second non-linear edge is adapted to be used to create an associated outside edge of the fabric pattern (Figs. 3 and 4).

Vazquez teaches the apparatus wherein the body comprises a first aligning gauge line (Figs. 1 and 2, any of the many lines are first aligning gauge lines).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-7, 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guerrero (U. S. Patent No. 3,071,171).

Guerrero discloses an apparatus comprising: a body (7) having at least a first non-linear edge (8) having a first wavelength (Fig. 1), a second body (7) having a second non-linear edge (19, 20) having a second wavelength (Figs. 3 and 4), said first wavelength being different from said second wavelength (Figs. 1-4), said first non-linear edge adapted to be used to make a portion of an associated pattern (Fig. 1), wherein the portion has an edge such that the shape of the portion edge resembles said first non-linear edge (Fig. 1), wherein said first non-linear edge is adapted to be used to make associated blocks, said shape of the portion edge resembling said first non-linear edge is adapted to be visible in the block (Col 1, lines 23-44).

Guerrero discloses the apparatus wherein said second non-linear edge is adapted to be used to make a portion of the pattern, wherein the shape of the portion edge resembles said second non-linear edge (Col 1, lines 23-44).

Guerrero discloses the apparatus wherein the shape of the first non-linear edge is different from the shape of the second non-linear edge (Figs. 1-4).

Guerrero discloses the apparatus wherein said body comprises demarcations (17) for measuring length.

Guerrero discloses the apparatus wherein said first non-linear edge is a wavy pattern (Fig. 1).

Guerrero discloses the apparatus wherein said second non-linear edge is a wavy pattern (Fig. 3).

Guerrero discloses the apparatus wherein said second non-linear edge is adapted to be used to create an associated outside edge of the pattern (Figs. 1 and 4 and Col 1, lines 23-44).

Guerrero discloses the apparatus wherein said body comprises a first aligning gauge line (10).

Regarding use of the device to make a "fabric pattern," it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

With respect to the term "adapted to" in claims 1, 3-7, 9-11: Guerrero discloses an apparatus which is considered to be "adapted to" be used to make a portion of an associated fabric pattern and/or fabric blocks as stated in the claims. Furthermore, the term "adapted to" makes what follows a functional statement and not a positive limitation because it has been held that the recitation that an element is "adapted to" perform a function only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchinson, 69 USPQ 138. Therefore, the apparatus of Guerrero is considered to be able to perform the function

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of being used to make a portion of an associated fabric pattern and/or fabric blocks as stated in the claims.

Regarding claim 1: Guerrero discloses the claimed invention as stated above except for the first and second non-linear edges being formed on a unitary member. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide first and second non-linear edges on a unitary member, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. Howard v. Detroit Stove Works, 150 U.S. 164 (1893). And, since Guerrero discloses the desire to have two patterns on a unitary member (Fig. 5 and Col 3, lines 4-32).

6. Claims 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (U. S. Patent No. 4,912,850) in view of Vazquez.

Regarding claims 12-17: Gray discloses a method for making a fabric pattern, comprising the steps of: providing a pattern measuring device comprising a body (15, 1, 2, 3); providing pieces of fabric, each of said pieces having an edge (24-27, 31, 39, 46, 47, Col 3, lines 3-8); cutting at least two pieces of fabric to a predetermined width (24-27, 31, 39, 46, 47, Col 3, lines 3-8); mating said edge of said first piece of fabric with said edge of said second piece of fabric (Col 3, lines 3-8); sewing said edges together (Col 3, lines 9-22); forming a visible seam between said edges (Col 3, lines 9-22); repeating the steps to form a block of fabric using only a first edge of said pattern measuring device (Col 3, lines 9-22); forming a plurality of fabric blocks (Col 3, lines 9-22); and sewing said fabric blocks together to create a fabric pattern having a visible pattern (Figs. 1 and 2 and Col 3, lines 9-22).

Gray discloses the method wherein the fabric pattern is for a quilt or any other craft project (Col 1, lines 18-65).

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Gray does not disclose the method wherein the pattern measuring device comprises a body having a first non-linear edge having a first wavelength and a second non-linear edge having a second wavelength, said first wavelength and second wavelength being different; positioning said first non-linear edge of said pattern measuring device over said fabric; cutting said fabric along said first non-linear edge such that said fabric edges have a have a non-linear pattern; mating said non-linear edge of said first piece of fabric with said non-linear edge of said second piece of fabric; sewing said non-linear edges together; forming a visible seam between said non-linear edges; wherein said first non-linear edge is a wavy pattern; wherein the step of mating said non-linear edge of said first piece of fabric with said non-linear edge of said second piece of fabric further comprises the step of mating a crest of said first piece of fabric with a trough of said second piece of fabric.

Vazquez discloses a method for making a fabric pattern comprising the steps of: providing a pattern measuring device (10) comprises a body having a first non-linear edge (52) having a first wavelength and a second non-linear edge (54) having a second wavelength (Figs. 1 and 2), said first wavelength and second wavelength being different (Figs. 1 and 2); providing pieces of fabric (Figs. 3 and 4), each piece having an edge; cutting at least two pieces of fabric to a predetermined width (Figs. 3 and 4); overlapping the edges of the two pieces a predetermined amount (in order to sew together or to make multiple patterns at the same time); positioning said first non-linear edge of said pattern measuring device over said fabric (Figs. 3 and 4, Col 5, lines 14-27); cutting said fabric along said first non-linear edge such that said fabric edges have a have a non-linear pattern (Figs. 3 and 4, Col 5, lines 14-27); mating said non-linear edge of said first piece of fabric with said non-linear edge of said second piece of fabric (Figs. 3 and 4, Col 5, lines 14-27); sewing said non-linear edges together (Figs. 3 and 4, Col 5, lines 14-27); forming a visible seam between said non-linear edges (Figs. 3 and 4, Col 5, lines 14-27); wherein said first

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non-linear edge is a wavy pattern (Figs. 1 and 2); wherein the step of mating said non-linear edge of said first piece of fabric with said non-linear edge of said second piece of fabric further comprises the step of mating a crest of said first piece of fabric with a trough of said second piece of fabric (Figs. 3 and 4, Col 1, line 43-Col 2, line 30 and Col 5, lines 14-27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gray to include a pattern measuring device with first and second non-linear edges, as taught by Vazquez, so that a user could make even more craft projects using a first and/or second non-linear edge(s), creating more possibilities in the design of a craft project.

Regarding claims 18 and 19: Gray discloses a method for making a quilt, comprising the steps of: providing a pattern measuring device (15) comprising a body (15, 1, 2, 3); providing pieces of fabric (24-27, 31, 39, 46, 47, Col 3, lines 3-8), each of said pieces having an edge; cutting at least two pieces of fabric to a predetermined width (24-27, 31, 39, 46, 47, Col 3, lines 3-8); overlapping the edges of the two pieces of fabric a predetermined amount (Col 3, lines 3-8); mating said edge of said first piece of fabric with said edge of said second piece of fabric (Col 3, lines 3-8); sewing said edges together (Col 3, lines 9-22); forming a visible seam between said edges (Col 3, lines 9-22); repeating said steps to form a block of fabric using only said first edge of said pattern measuring device (Col 3, lines 9-22); forming a plurality of fabric blocks (Col 3, lines 9-22); and sewing said fabric blocks together to create a quilt having a visible pattern (Figs. 1 and 2 and Col 3, lines 9-22).

Gray does not disclose a method wherein the pattern measuring device comprises a body having a first non-linear edge having a first wavelength and a second non-linear edge having a second wavelength, each of said non-linear edges having a wavy pattern said first wavelength and second wavelength being different; positioning said first non-linear edge of said pattern

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measuring device over said fabric; cutting said fabric along said first non-linear edge such that said fabric edges have a have a non-linear pattern; mating said non-linear edge of said first piece of fabric with said non-linear edge of said second piece of fabric; sewing said non-linear edges together; forming a visible seam between said non-linear edges; wherein the step of mating said non-linear edge of said first piece of fabric with said non-linear edge of said second piece of fabric further comprises the step of mating a crest of said first piece of fabric with a trough of said second piece of fabric; wherein only said first non-linear edge is adapted to be used to form the fabric block.

Vazquez discloses a method wherein the pattern measuring device (10) comprises a body having a first non-linear edge (52) having a first wavelength and a second non-linear edge (54) having a second wavelength (Figs. 1 and 2), each of said non-linear edges having a wavy pattern (Figs. 1 and 2), said first wavelength and second wavelength being different (Figs. 1 and 2); positioning said first non-linear edge of said pattern measuring device over said fabric (Figs. 3 and 4); cutting said fabric along said first non-linear edge such that said fabric edges have a have a non-linear pattern (Figs. 3 and 4, Col 5, lines 14-27); mating said non-linear edge of said first piece of fabric with said non-linear edge of said second piece of fabric (Figs. 3 and 4, Col 5, lines 14-27); sewing said non-linear edges together (Figs. 3 and 4, Col 5, lines 14-27); forming a visible seam between said non-linear edges (Figs. 3 and 4, Col 5, lines 14-27); wherein the step of mating said non-linear edge of said first piece of fabric with said non-linear edge of said second piece of fabric further comprises the step of mating a crest of said first piece of fabric with a trough of said second piece of fabric (Figs. 3 and 4, Col 5, lines 14-27); wherein only said first non-linear edge is adapted to be used to form the fabric block (only one non-linear edge is used for each pattern when making pants or shirts).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gray to include a pattern measuring device with first and second non-linear edges, as taught by Vazquez, so that a user could make even more craft projects using a first and/or second non-linear edge(s), creating more possibilities in the design of a craft project.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 3-7, 9-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose pattern making devices Fritz et al. (U. S. Patent No. 6,357,370), Walker (U. S. Patent No. 5,791,062), Claytor (U. S. Patent No. 5,749,149), Sligar (U. S. Patent No. 5,638,605), McCormick (U. S. Patent No. 5,579,670), Horikiri (U. S. Patent No. 5,230,762), Saulietis (U. S. Patent No. 4,945,642), Burrier (U. S. Patent No. 4,646,666), Fitzpatrick et al. (U. S. Patent No. 4,386,980), Axelrod (U. S. Patent No. 4,053,986), and Carson (U. S. Patent No. 4,022,139).

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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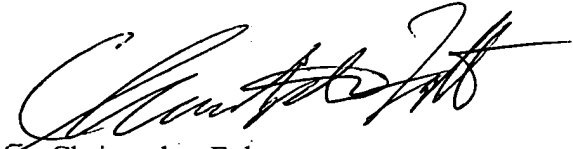
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
January 28, 2005



Christopher Fulton
Primary Examiner
Tech Center 2800